IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9328 of 2006
Date of decision: 1.10.2007

Ajmer Singh and another ...Petitioners

Versus

Amar Nath and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE R.S. MADAN

Present: Mr. A.P. Bhandari, Advocate,
for the petitioners.

Mr. G.S. Gandhi, Advocate, for
respondents 1 and 2.

K.S.GAREWAL, J.

CM 15511 of 2007 is allowed. Replications and objections annexed therewith are taken on record.

Contesting parties in this case are Ajmer Singh and Rajbir on the one hand. The petitioners are pitted against Amar Nath and Suraj Mal. The dispute relates to the partition of the joint holdings of the parties.

An application for partition was filed by Amar Nath respondent 1 on June 18, 2002. Ajmer Singh appeared in the partition proceedings and sought a direction that his possession should be taken into consideration and the tubewell installed by him, after spending a lot of money, be also kept in

mind. On September 8, 2004, Ajmer Singh and others filed objections to the mode of partition but these objections were not decided. On April 28, 2005, the petitioners again filed objections regarding 'naksha bay'. These objections were dismissed on August 4, 2005 by the Assistant Collector by simply stating that the objections have been considered and rejected. The petitioners took up the matter in appeal before the Collector who dismissed the appeal on October 31, 2005. The petitioners' revision was also dismissed on January 24, 2006 and Ajmer Singh's petition before the Financial Commissioner too was dismissed on May 24, 2006.

The petitioners contend that their plea that they were in possession of certain land was not considered. The tubewell installed by them has also not been taken into consideration. They got no land on the road. Their entire share was away from the road.

Notice of motion was issued and the respondents put in appearance and filed their reply.

The Assistant Collector, Collector, Commissioner and the Financial Commissioner have unanimously found against the petitioners. Therefore, we feel that there is hardly any scope for interference in partition proceedings when the revenue courts, which are the best equipped to decide the matter, have rejected all the pleas.

Partition of land is done by considering many different points and these are largely ownership and possession specific and occasionally land specific. Revenue authorities are by and large fair and the procedure adopted by them is open and transparent. Partition of land takes place after all the steps have been completed. It is only after the instrument of partition has been prepared that land stands partitioned. There must be some finality

to partition. Legal objections or objections which are weighty and substantial never get ignored but when the parties try to make out objections in a writ petition and yet had failed to substantiate that very objection before the revenue courts, all it means is that the objection is unviable and hollow.

The Collector in his order has recorded that the naksha bay has been correctly prepared as per the rules of partition and statements of the parties and had dismissed the appeal.

Revision before the Commissioner and the Financial Commissioner met the same fate. The petitioners filed their objections to naksha bay on April 20, 2005 whereunder they pleaded that they had got inferior land of less value and good land should have been distributed in equal share. Their possession had not been kept in mind and no arrangements had been made for water channels. They had also objected that their block had not been made correctly and they would face difficulty while cultivating it.

The objections filed by the petitioners are without substance and deserve to be rejected. It seems that they were trying to prolong the finalization of the partition proceedings on one pretext or the other and had indeed succeeded in obtaining status quo order by filling the present petition and initially withheld their objections.

We do not find any merit in this petition. Dismissed.

(K.S. GAREWAL)
JUDGE

1.10.2007 **(R.S. MADAN)**
prem **JUDGE**